

REMARKS**INTRODUCTION:**

In accordance with the foregoing, claims 1, 3, 5, 6, 8, 9, 11, 13, 14, and 16 have been amended, and claims 17-20 have been cancelled without prejudice or disclaimer. No new matter is being presented, and approval and entry are respectfully requested.

Claims 1-16 are pending and under consideration. Reconsideration is respectfully requested.

OBJECTIONS TO THE DISCLOSURE:

In the Office Action, at page 2, numbered paragraph 1, the disclosure was objected to for informalities.

The specification has been reviewed in response to this Office Action. A marked-up specification and a substitute specification are provided herewith wherein the terminology "phthalocyan" has been amended to recite "phthalocyanine" and the terminology "enaminstylbene" has been amended to recite "enamine stilbene." Therefore, the outstanding objections to the disclosure should be resolved.

Reconsideration and withdrawal of the outstanding objections to the disclosure are respectfully requested.

OBJECTIONS TO THE SPECIFICATION:

(1) The Examiner submitted that, in claims 5-7, 13 and 14, the recited mixture comprising the "charge transfer material" and "polycarbonate" lacks antecedent basis in the specification, that the specification does not disclose the presence of the charge transfer material in the mixture, and that the term "polycarbonate" recited in claim 5 is broader than the disclosed polycarbonate of formula 5 because it encompasses polycarbonates that are not represented by formula 5.

"1,1,2-trichlroethane" has been amended to correct the spelling to "1,1,2-trichloroethane."

It should be noted that paragraph 15 recites "a single-layered electrophotographic photoreceptor comprising a charge generating material, a binder resin and a charge transfer material is utilized, ..." In addition, paragraph 17 recites: "Alternatively, the binder resin can be a

mixture of polycarbonate and polyethylene terephthalate polymer mixed in a ratio of 1:99 to 99:1 by weight.” The polycarbonate of paragraph 17 is not limited to the polycarbonate of formula 5. Thus, it is respectfully submitted that the single-layered electrophotographic photoreceptor comprises three constituents:

a charge generating material;	}	from paragraph 15
a binder resin; and		
a charge transfer material.		

The specification supports the terminology of claim 5 which recites “wherein the charge generating material is included in a dispersion liquid, the dispersion liquid including the charge transfer material, 1,1,2-trichloroethane as a solvent, and polycarbonate as another binder resin.” That is, claim 5 recites that the charge generating material is included in a dispersion liquid and that the dispersion liquid includes:

the charge transfer material;	←	from paragraph 17
1,1,2-trichloroethane as a solvent; and		
polycarbonate.		

Thus, it is respectfully submitted that the recited mixture comprising the “charge transfer material” and “polycarbonate” does not lack antecedent basis in the specification.

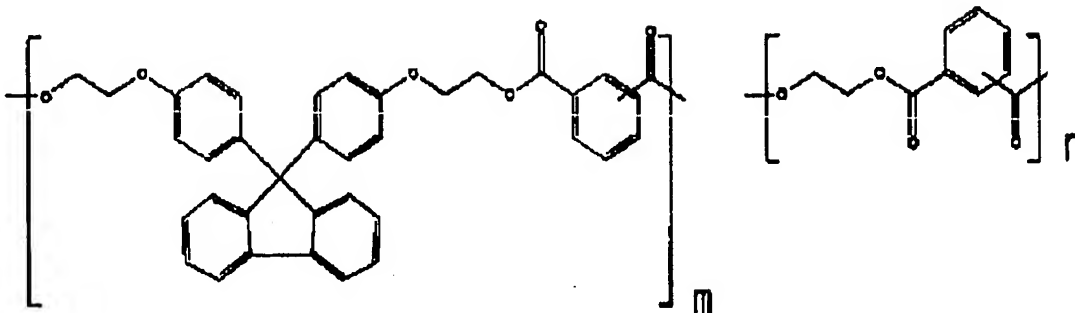
(2) The Examiner submitted that, in claim 9, the recited dispersion liquid comprising the charge generating material and the polyethylene terephthalate polymer of the formula recited in claim 9 lacks antecedent basis in the specification.

The single-layered electrophotographic photoreceptor comprises three constituents:

a charge generating material;	}	from paragraph 15
a binder resin; and		
a charge transfer material.		

As noted in paragraph 19: “In the present invention, the single-layered electrophotographic photoreceptor includes the charge generating material in dispersion liquid.”

It is respectfully submitted that paragraph 16 recites: “The binder resin is polyethylene terephthalate polymer of the following formula:



with n and m each being an integer that is equal to, or greater than, 1... "

Thus, it is respectfully submitted that the recited dispersion liquid comprising the charge generating material and the polyethylene terephthalate polymer of the formula recited in claim 9 does not lack antecedent basis in the specification.

(3) The Examiner submitted that, in claim 9, the recitation of coating the coating liquid onto "a substrate of a drum or cartridge" lacks antecedent basis in the specification.

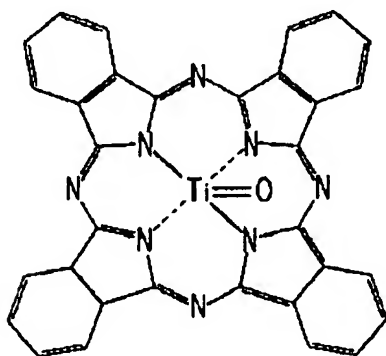
As noted above, paragraph 15 recites that the single-layered electrophotographic photoreceptor comprises three constituents:

- a charge generating material;
- a binder resin; and
- a charge transfer material.

As noted above, paragraph 19 recites: "In the present invention, the single-layered electrophotographic photoreceptor includes the charge generating material in dispersion liquid."

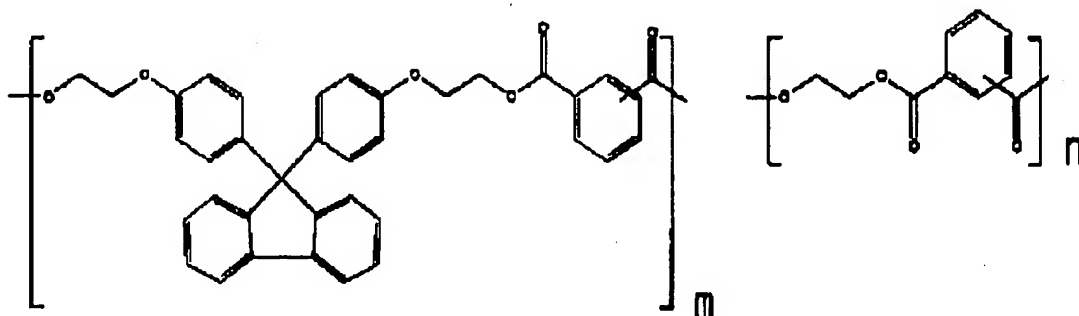
It is respectfully submitted that

"dispersing, with a binder resin and a predetermined solvent, a charge generating material, wherein the charge generating material comprises titanyloxy phthalocyanine which has a following formula:



and the titanyloxy phthalocyanine is a crystal form which has at least 2 main peaks in a

range of $(2\theta \pm 0.2) = 9.5$ to 27.3 of a Bragg angle in a characteristic $\text{CuK}\alpha$ X-ray diffraction spectrum; and the binder resin is a polyethylene terephthalate polymer which has a following formula:



with n and m each being an integer that is equal to, or greater than, 1;

straining out dispersing materials to obtain a dispersion liquid;

dissolving, in a predetermined solvent, a charge transfer material comprising a positive hole transfer material, an electron transfer material and a binder resin to obtain a dissolved charge transfer material;

mixing the dispersion liquid with the dissolved charge transfer material to form a coating liquid;”

describe the preparation of a coating liquid comprising the single-layered electrophotographic photoreceptor.

Paragraph 56 of the specification of the present invention recites: “the electrophotographic photoreceptor of the present invention may be installed in a cartridge or on a drum of an image forming apparatus.” It is respectfully submitted that one skilled in the art understands that the terminology “coating the coating liquid onto a substrate of a drum or cartridge to form a single-layered electrophotographic photoreceptor” of claim 9 refers to installing the electrophotographic photoreceptor of the present invention in a cartridge or on a drum.

Thus, it is submitted that the recitation of coating the coating liquid onto “a substrate of a drum or cartridge” does not lack antecedent basis in the specification.

Hence, withdrawal of the objections to the specification in (1), (2) and (3) above (paragraph 2) is respectfully requested.

REJECTION UNDER 35 U.S.C. §112:

A. In the Office Action, at pages 4-7, numbered paragraph 4, claims 3 and 5-20 were rejected under 35 U.S.C. §112, second paragraph, as failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This rejection is

traversed and reconsideration is requested.

(1) The Examiner submitted that claims 3 and 11 are indefinite in the term "enaminstylbene [sic] polymer" because it is not clear what is meant by the term.

The typographical error for the terminology ""enaminstylbene" has been corrected to recite "enamine stilbene" in the specification and claims. It is respectfully submitted that enamine stilbene compounds are known to those skilled in the art. Hence, it is respectfully submitted that no definition of the term "enamine stilbene" is needed.

(2) The Examiner submitted that claims 5-7 are indefinite because it is not clear how the charge generating material is included in a dispersion liquid comprising the charge transfer material and a polycarbonate, when the charge generating material and charge transfer material are present on a substrate in the single-layered photoreceptor.

It is respectfully submitted that paragraph 32 of the specification of the present invention, recites an example wherein a milling base is produced using Y-TiOPc by agitating 6.3 g of Y-TiOPc and adding to a solution in which 59.5 g of 1,1,2-trichloroethane (abbreviated TCE) and was dissolved with 4.2 g of polycarbonate resin (PCZ 200 made by MITSUBISHI CHEMICAL INC.), is then dispersed with glass beads with a paint shaker or a milling machine for more than 1 hr at 0°C. Then the dispersion coating liquid, including the dispersion liquid, is produced by using a charge transfer material of enamine stilbene polymer, an electron transfer material and a binder resin. Methylene chloride and TCE are mixed and dissolved, and the dispersion base is added to obtain the coating liquid.

Thus, it is respectfully submitted that, while other methods are possible, at least the above paragraph provides sufficient definition such that it is clear in claims 5-7 how the charge generating material is included in a dispersion liquid comprising the charge transfer material and a polycarbonate, when the charge generating material and charge transfer material are present on a substrate in the single-layered photoreceptor.

(3) The Examiner submitted that claim 6 is indefinite in the phrase "polycarbonate is in a range of 10 wt% to 90 wt %" because it is not clear what is the basis of said weight percentage, e.g., the dispersion liquid, the single layer, or the amount of the polyester resin, charge transfer mater or charge generating material.

Claim 6 has been amended to recite wherein the polycarbonate is in a range of 10 wt% to 90 wt% with respect to a total weight of the binder resin, and is now submitted to be clear.

(4) The Examiner submitted that claim 8 is indefinite in the phrase "the binder

resin further includes polycarbonate” because it is outside the scope of instant claim 1, from which claim 8 depends.

Claim 1 has been amended to recite “the binder resin ~~is~~ comprises a polyethylene terephthalate polymer which has a following formula.” Thus, claim 8 is within the scope of claim 1 and is now submitted to be definite.

(5) The Examiner submitted that claim 9 is indefinite in the phrase “straining out dispersing materials to obtain a dispersion liquid” for lack of antecedent basis in claim 9.

Claim 9 has been amended to recite “dispersing, using dispersing materials.” Thus, it is respectfully submitted that the phrase “straining out dispersing materials to obtain a dispersion liquid” now has antecedent basis in claim 9.

(6) The Examiner submitted that claims 13 and 14 are indefinite for lack of unambiguous antecedent basis in claim 9, from which claim 13 depends. The Examiner submitted that claim 14 is further indefinite in the phrase “polycarbonate is in the range of 10 wt% to 90 wt%” because it is not clear what is the basis of said weight percentage.

Claim 9 has been amended to recite: the binder resin comprises is a polyethylene terephthalate polymer.

Claim 13 has been amended to recite: “wherein the charge generating material ~~is included~~ dispersed in the dispersion liquid, ~~the dispersion liquid including and mixed with the dissolved~~ the charge transfer material; further includes 1,1,2-trichloroethane ~~1,1,2-trichloroethane~~ as a solvent; and polycarbonate as another binder resin. Thus, claim 13 is now believed to be clear.

Claim 14 has been amended to add “with respect to a total weight of the binder resin” for clarity.

Thus, claims 13 and 14 are submitted to be definite with respect to antecedent basis in claim 9 and what is the basis of the weight percentage.

(7) The Examiner submitted that claim 16 is indefinite in the phrase “the binder resin further includes polycarbonate and is a mixture of polycarbonate and polyethylene terephthalate polymer” for lack of unambiguous antecedent basis in claim 9, from which claim 16 depends.

Claim 9 has been amended to recite: the binder resin comprises is a polyethylene terephthalate polymer.

The spelling of “terephthalate” has been corrected.

Thus, claim 16 is now submitted to be definite.

(8) The Examiner submitted that claim 17 is indefinite in the phrase

“photoreceptor in a photoreceptor cartridge of an image forming apparatus” because it is not clear whether the phrase “in a photoreceptor cartridge ...” is merely a recitation of an intended use or whether the claim is claiming an image forming apparatus.

Claim 17 has been cancelled without prejudice or disclaimer. Thus, the above objection to claim 17 is moot.

(9) The Examiner submitted that claim 19 is indefinite in the phrase “photoreceptor installed in a photoreceptor drum of an image forming apparatus” because it is not clear whether the phrase “installed in a photoreceptor drum” is merely a recitation of intended use, or whether the claim is claiming an image forming apparatus. Furthermore, it is not clear how a photoreceptor comprising a substrate is “installed” in a photoreceptor drum.

Claim 19 has been cancelled without prejudice or disclaimer. Thus, the above objection to claim 19 is moot.

B. In the Office Action, at pages 7-9, numbered paragraph 5, claims 1-20 were rejected under 35 U.S.C. §112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. The Examiner submitted that the omitted element is an electrically conductive substrate. This rejection is traversed and reconsideration is requested.

Claims 17-20 have been cancelled without prejudice or disclaimer.

Independent claims 1 and 9 have been amended to insert “an electrically conductive” immediately prior to the term “substrate.” This amendment is supported by the general function of the electrophotographic photoreceptor, as is known to those skilled in the art. Thus, amended independent claims 1 and 9 are submitted to be complete under 35 U.S.C. §112, second paragraph.

Since claims 2-8 and 10-16 depend from amended independent claims 1 and 9, respectively, claims 2-8 and 10-16 are submitted to be complete under 35 U.S.C. §112, second paragraph for at least the reasons that amended independent claims 1 and 9 are submitted to be complete under 35 U.S.C. §112, second paragraph.

C. In the Office Action, at pages 9-10, numbered paragraphs 6-7, claims 1-20 were rejected under 35 U.S.C. §112, first paragraph, as being based on a disclosure which is not enabling. The Examiner submitted that an electrically conductive substrate is critical or essential to the practice of the invention, that the instant claims do not recite the presence of an electrically conductive substrate, and thus, that the instant claims are not enabled by the

disclosure. This rejection is traversed and reconsideration is requested.

Claims 17-20 have been cancelled without prejudice or disclaimer.

As is known to those skilled in the art an electrophotographic apparatus has an electrophotographic photosensitive member, such as an electrophotographic photoreceptor, having a photosensitive layer on an electroconductive support, a charging means provided in contact with the photosensitive member, and image exposure means, a development means, and an image transfer means. The electrophotographic photosensitive member has a surface layer containing electroconductive particles, and a binder resin. The electroconductive support is generally an electrically conductive substrate.

Thus, it is respectfully submitted that the present invention is understood by those skilled in the art, and that those skilled in the art understand that the substrate is electrically conductive.

However, for greater clarity, independent claims 1 and 9 have been amended to insert "an electrically conductive" immediately prior to the term "substrate," and are submitted to be enabling under 35 U.S.C. §112, first paragraph. Since claims 2-8 and 10-16 depend from amended independent claims 1 and 9, respectively, claims 2-8 and 10-16 are submitted to be enabling under 35 U.S.C. §112, first paragraph for at least the reasons that amended independent claims 1 and 9 are submitted to be enabling under 35 U.S.C. §112, first paragraph.

Hence, it is respectfully submitted that under 35 U.S.C. §112, first paragraph and that claims 1-16 are enabled by the disclosure under 35 U.S.C. §112, first paragraph.

OBJECTIONS TO CLAIMS:

In the Office Action, at page 11, numbered paragraph 8, claims 3, 8, 11, and 16 were objected to because of spelling informalities.

The spelling corrections indicated by the Examiner in claims 3, 8, 11, and 16 have been made. Therefore, the outstanding objections to the claims should be resolved.

Reconsideration and withdrawal of the outstanding objections to the claims are respectfully requested.

INTERPRETATION OF CLAIMS 5-7:

In the Office Action, at pages 12-13, numbered paragraph 12, the Examiner has assumed, arbitrarily, the following:

- (1) Claims 5-7 recite product by process limitations.

Claim 5 recites specific materials present in the dispersion liquid used to prepare the photoreceptor. Thus, claim 5 is a product by process claim.

Claim 6 recites a weight % range for one of the components of the binder resin. Thus, contrary to the Examiner's assumption, claim 6 is not a product by process claim.

Claim 7 recites conditions for milling the dispersion liquid. Thus, claim 7 is a product by process claim.

(2) The basis of the weight percentage of the polycarbonate resin is based on the weight of the solid content in the single layer.

The above conclusion is incorrect. Claim 6 has been amended to recite that the basis of the weight percentage of the polycarbonate resin is based on a total weight of the binder resin.

(3) Claims 17 and 18 recite an image forming apparatus comprising a photoreceptor cartridge that comprises the single-layered photoreceptor.

Claims 17 and 18 have been cancelled without prejudice or disclaimer. Thus, the interpretation of said claims is moot.

(4) Claims 19 and 20 recite an image forming apparatus comprising the single-layered photoreceptor that comprises a drum having thereon a photoreceptive layer.

Claims 19 and 20 have been cancelled without prejudice or disclaimer. Thus, the interpretation of said claims is moot.

REJECTION UNDER 35 U.S.C. §102:

A. In the Office Action, at pages 13-14, numbered paragraph 13, claims 1, 2 and 17-20 were rejected under 35 U.S.C. §102(e)(b?) as being anticipated by US 2004/0009419 A1 (Yokota), as evidenced by ACS File Registry RN 26201-32-1, Japanese Patent 01-299874 (JP '874), and the Japanese Patent Office (JPO) English language abstract describing JP '874. This rejection is traversed and reconsideration is requested.

Claims 17-20 have been cancelled without prejudice or disclaimer.

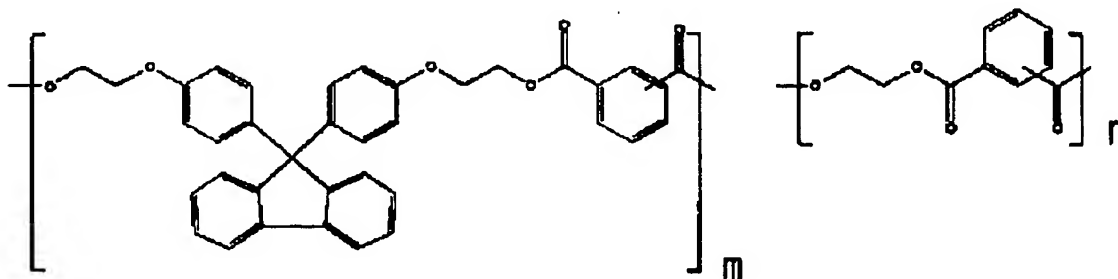
As an initial point of clarification, Yokota was first published on January 15, 2004, whereas the instant application was filed in the United States on June 24, 2003. As such, it is respectfully submitted that Yokota does not qualify as prior art under 35 U.S.C. §102(b). Additionally, the date of invention in the instant invention is at least July 10, 2002, which is the foreign priority date based upon the prior filing of the foreign counterpart to the instant

application in the Korean Intellectual Property Office. A copy of the foreign counterpart was previously filed, as acknowledged by the Examiner in the Summary of the Office Action.

Further, enclosed is an English translation of Korean Application No. 2002-40105, along with a corresponding statement from the translator in compliance with 37 CFR 1.55(a)(4). As such, it is respectfully submitted that the applicants have established a date of invention of at least July 10, 2002. MPEP 210.15. Since this date of invention is prior to the publication of Yokota on January 15, 2002, Yokota does not qualify as prior art under 35 U.S.C. 102(a) as it was not "described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent." Therefore, it is respectfully requested that the Examiner reconsider and withdraw the rejection of claims 1 and 2 in view of Yokota.

In addition, it is respectfully submitted that anticipation requires that every element of an invention be found in a single reference.

JP '874 fails to teach using the binder resin is a polyethylene terephthalate polymer which has a following formula;



with n and m each being an integer that is equal to, or greater than, 1, which is recited in independent claims 1 and 9 of the present claimed invention. Thus, independent claims 1 and 9 are not anticipated under 35 U.S.C. §102 by JP'874. Since claim 2 depends from independent claim 1, claim 2 is submitted not to be anticipated under 35 U.S.C. §102 by JP '874 for at least the reasons that claim 1 is submitted not to be anticipated under 35 U.S.C. §102 by JP '874.

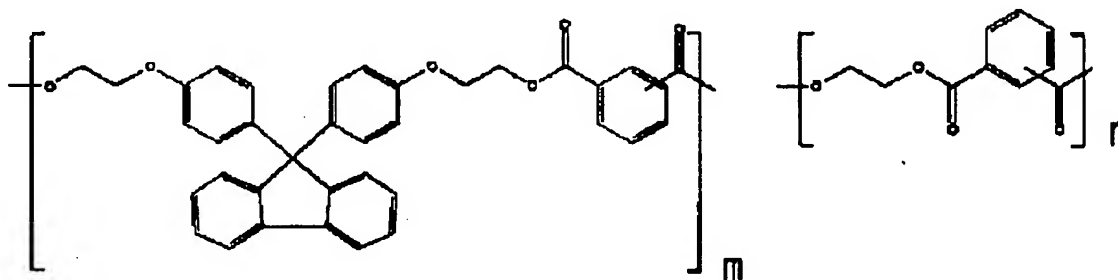
In addition, although the Examiner lists several references as a basis for the rejection, none of the references discloses a photoreceptor layer which includes both Y-form titanyloxy phthalocyanine acting as a charge generating material and polyethylene terephthalate polymer acting as a binder material, as is recited in amended claim 1 of the present invention. Thus, amended claim 1, and claim 2 which depends therefrom, are submitted not to be anticipated under 35 U.S.C. §102(e)(b?) by US 2004/0009419 A1 (Yokota), and/or ACS File Registry RN 26201-32-1, and/or Japanese Patent 01-299874 (JP '874), and/or the Japanese Patent Office (JPO) English language abstract describing JP '874.

B. In the Office Action, at pages 14-15, numbered paragraph 14, claims 1, 2 and 8 were

rejected under 35 U.S.C. §102(b) as being anticipated by Japanese Patent 10-020515 (JP '515), as evidenced by ACS File Registry RN 26201-32-1, Japanese Patent 61-271050 (JP '050), and the Japanese Patent Office (JPO) English language abstract describing JP '050. This rejection is traversed and reconsideration is requested.

As noted above, anticipation requires that every element of an invention be found in a single reference. As noted by the Examiner, JP '515 does not disclose that the alpha titanyl phthalocyanine has at least 2 main peaks at Bragg angles in the range of 9.5° to 27.3° , as is recited in independent claims 1 and 9. Thus, claims 1 and 9 are not anticipated under 35 U.S.C. §102(b) as being anticipated by Japanese Patent 10-020515 (JP '515). Since claims 2 and 8 depend from claim 1, claims 2 and 8 are submitted not to be anticipated under 35 U.S.C. §102(b) as being anticipated by Japanese Patent 10-020515 (JP '515) for at least the reasons that claim 1 is submitted not to be anticipated under 35 U.S.C. §102(b) as being anticipated by Japanese Patent 10-020515 (JP '515).

Similarly, JP '050 fails to teach using the binder resin is a polyethylene terephthalate polymer which has a following formula;



with n and m each being an integer that is equal to, or greater than, 1, which is recited in independent claims 1 and 9 of the present claimed invention. Thus, independent claims 1 and 9 are not anticipated under 35 U.S.C. §102(b) by JP '050. Since claims 2 and 8 depend from independent claim 1, claims 2 and 8 are submitted not to be anticipated under 35 U.S.C. §102(b) by JP '050 for at least the reasons that claim 1 is submitted not to be anticipated under 35 U.S.C. §102(b) by JP '050.

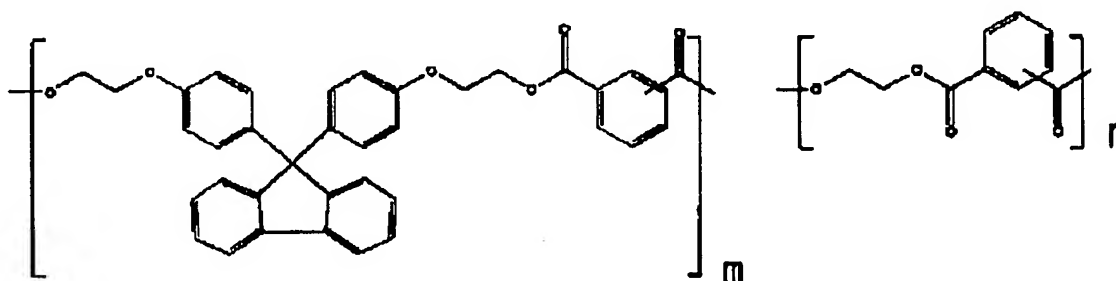
In addition, although the Examiner lists several references as a basis for the rejection, none of the references discloses a photoreceptor layer which includes both Y-form titanyloxy phthalocyanine acting as a charge generating material and polyethylene terephthalate polymer acting as a binder material, as is recited in amended claim 1 of the present invention. Thus, amended claim 1, and claims 2 and 8 which depend therefrom, are submitted not to be anticipated under 35 U.S.C. §102(b) by Japanese Patent 10-020515 (JP '515), and/or ACS File

Registry RN 26201-32-1, and/or Japanese Patent 61-271050 (JP '050), and/or the Japanese Patent Office (JPO) English language abstract describing JP '050.

C. In the Office Action, at pages 16-17, numbered paragraph 15, claims 5-7 were rejected under 35 U.S.C. §102(b) as being anticipated by, or in the alternative, under 35 U.S.C. §103(a) as obvious over JP '515, as evidenced by ACS File Registry RN 26201-32-1, Japanese Patent 61-271050 (JP '050), and the Japanese Patent Office (JPO) English language abstract describing JP '050. This rejection is traversed and reconsideration is requested.

As noted above, anticipation requires that every element of an invention be found in a single reference. As noted by the Examiner, JP '515 does not disclose that the alpha titanyl phthalocyanine has at least 2 main peaks at Bragg angles in the range of 9.5° to 27.3° , as is recited in independent claims 1, 9, 17 and 19. Thus, claims 1, 9, 17 and 19 are not anticipated under 35 U.S.C. §102(b) as being anticipated by Japanese Patent 10-020515 (JP '515). Since claims 5-7 depend from claim 1, claims 5-7 are submitted not to be anticipated under 35 U.S.C. §102(b) as being anticipated by Japanese Patent 10-020515 (JP '515) for at least the reasons that claim 1 is submitted not to be anticipated under 35 U.S.C. §102(b) as being anticipated by Japanese Patent 10-020515 (JP '515).

Similarly, JP '050 fails to teach using the binder resin is a polyethylene terephthalate polymer which has a following formula;



with n and m each being an integer that is equal to, or greater than, 1, which is recited in independent claims 1 and 9 of the present claimed invention. Thus, independent claims 1 and 9 are not anticipated under 35 U.S.C. §102(b) by JP '050. Since claims 5-7 depend from independent claim 1, claims 5-7 are submitted not to be anticipated under 35 U.S.C. §102(b) by JP '050 for at least the reasons that claim 1 is submitted not to be anticipated under 35 U.S.C. §102(b) by JP '050.

In addition, although the Examiner lists several references as a basis for the rejection, none of the references discloses a photoreceptor layer which includes both Y-form titanyloxy phthalocyanine acting as a charge generating material and polyethylene terephthalate polymer

acting as a binder material, as is recited in amended claim 1 of the present invention. Thus, amended claim 1, and claims 5-7 which depend therefrom, are submitted not to be anticipated under 35 U.S.C. §102(b) by JP '515, and/or ACS File Registry RN 26201-32-1, and/or Japanese Patent 61-271050 (JP '050), and/or the Japanese Patent Office (JPO) English language abstract describing JP '050 and to be patentable (non-obvious) over JP '515, and/or ACS File Registry RN 26201-32-1, and/or Japanese Patent 61-271050 (JP '050), and/or the Japanese Patent Office (JPO) English language abstract describing JP '050.

REJECTION UNDER 35 U.S.C. §103:

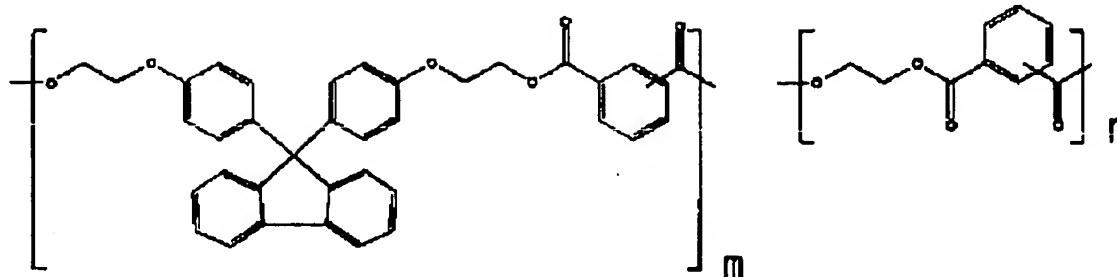
A. In the Office Action, at pages 17-19, numbered paragraph 16, claims 17-20 were rejected under 35 U.S.C. §103(a) as being unpatentable over US 5,430,526 (Ohkubo) combined with JP'515, as evidenced by ACS File Registry RN 26201-32-1, Japanese Patent 61-271050 (JP '050), and the Japanese Patent Office (JPO) English language abstract describing JP '050. The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

Claims 17-20 have been cancelled without prejudice or disclaimer. Thus, the rejection of claims 17-20 under 35 U.S.C. §103(a) as being unpatentable over US 5,430,526 (Ohkubo) combined with JP'515, as evidenced by ACS File Registry RN 26201-32-1, Japanese Patent 61-271050 (JP '050), and the Japanese Patent Office (JPO) English language abstract describing JP '050 is submitted to be moot.

B. In the Office Action, at pages 19-21, numbered paragraph 17, claims 1, 2, 4, and 8 were rejected under 35 U.S.C. §103(a) as being unpatentable over Japanese Patent 2000-075509 (JP '509), as evidenced by ACS File Registry RN 26201-32-1, Japanese Patent 61-271050 (JP '050), and the Japanese Patent Office (JPO) English language abstract describing JP '050. The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

As noted by the Examiner, JP '509 fails to teach or suggest that the alpha titanyl phthalocyanine has at least 2 main peaks at Bragg angles in the range of 9.5° to 27.3°, as is recited in independent claims 1, 9, 17 and 19. In addition, JP '509 does not disclose that the binder resin comprises the polyester resin recited in the instant claims. Thus claim 1 is submitted to be non-obvious under 35 U.S.C. §103(a) by JP '509.

JP '050 fails to teach using the binder resin is a polyethylene terephthalate polymer which has a following formula;



with n and m each being an integer that is equal to, or greater than, 1, which is recited in independent claims 1 and 9 of the present claimed invention. Thus, independent claim 1 is non-obvious under 35 U.S.C. §103(a) by JP '050.

Hence, it is respectfully submitted that independent claim 1 is non-obvious under 35 U.S.C. §103(a) in view of JP '509 and/or JP '050, alone or in combination. Since claims 2, 4, and 8 depend from claim 1, claims 2, 4, and 8 are submitted to be non-obvious under 35 U.S.C. §103(a) in view of JP '509 and/or JP '050, alone or in combination, for at least the reasons that claim 1 is submitted to be non-obvious under 35 U.S.C. §103(a) in view of JP '509 and/or JP '050, alone or in combination.

Also, though the Examiner submits that it would have been obvious to combine the teachings of the prior art, but there is no evidence as to whether this line of reasoning relates to a teaching which one of ordinary skill may already be "presumed to know" as a teaching from the prior art. Clearly, in any situation involving obviousness, it is always possible to improperly invent a reason why it would have been obvious to combine the teachings of the prior art. This reason usually comes from the patent application itself. Such an inventive line of reasoning is based upon impermissible **hindsight**.

The Federal Circuit has required that it is necessary to provide evidence of a suggestion, teaching or motivation to combine the teachings of the prior art. Even though this motivation may come from the knowledge of one of ordinary skill in the art, there must be evidence of such knowledge. In re Dembiczak, 50 USPQ 2nd 1614, 1617 (Fed. Cir. 1999). The Federal Circuit has also stated that even where the level of skill in the art is high, the principle known to one of ordinary skill that suggests a combination of teachings must be specifically identified. In re Rouffet, 47 USPQ 2nd 1453, 1459 (Fed. Cir. 1998).

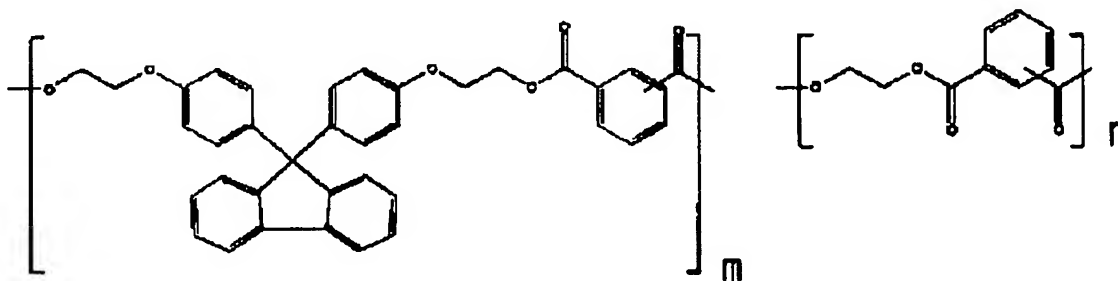
Thus, the obviousness analysis presented in the rejections is still deficient, and it is requested that the rejections of claims 1, 2, 4, and 8 under 35 U.S.C. §103(a) in view of JP'509 and/or JP'050 and/or JP'515, alone or in combination, be withdrawn.

In addition, although the Examiner lists several references as a basis for the rejection, none of the references teaches or suggests a photoreceptor layer which includes both Y-form titanyloxy phthalocyanine acting as a charge generating material and polyethylene terephthalate polymer acting as a binder material, as is recited in amended claim 1 of the present invention. Thus, amended claim 1, and claims 2, 4 and 8 which depend therefrom, are submitted to be non-obvious under 35 U.S.C. §103(a) over Japanese Patent 2000-075509 (JP '509), and/or ACS File Registry RN 26201-32-1, and/or Japanese Patent 61-271050 (JP '050), and/or the Japanese Patent Office (JPO) English language abstract describing JP '050.

C. In the Office Action, at pages 22-24, numbered paragraph 18, claims 1-4 and 8 were rejected under 35 U.S.C. §103(a) as being unpatentable over US 2003/00228534 A1 (Zhu), as evidenced by applicants' admission in paragraph 0033 of the instant specification of the chemical identity of the material associated with the tradename MPCT 10 obtained from Mitsubishi Paper Mill Co., combined with 6,528,645 B1 (Hamasaki) and JP'515 (see JPO translation of JP'515 for cites). The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

It is respectfully submitted that US 2003/00228534 A1 (Zhu) is not available as prior art. As noted above, the date of invention in the instant invention is at least July 10, 2002, which is the foreign priority date based upon the prior filing of the foreign counterpart to the instant application in the Korean Intellectual Property Office. A copy of the foreign counterpart was previously filed, as acknowledged by the Examiner in the Summary of the Office Action. Thus, US 2003/00228534 A1 (Zhu) is not available as prior art since Zhu was first published on December 11, 2003.

Hamasaki fails to disclose that the binder resin comprises the polyester resin recited in the instant claims. Thus claim 1 is submitted to be non-obvious under 35 U.S.C. §103(a) by Hamasaki. Hamasaki fails to teach using the binder resin is a polyethylene terephthalate polymer which has a following formula;



with n and m each being an integer that is equal to, or greater than, 1, which is recited in independent claims 1 and 9 of the present claimed invention. Thus, independent claim 1 is non-

obvious under 35 U.S.C. §103(a) in view of Hamasaki. Since claims 2-4 and 8 depend from claim 1, claims 2-4 and 8 are submitted to be non-obvious under 35 U.S.C. §103(a) in view of Hamasaki for at least the reasons that claim 1 is submitted to be non-obvious under 35 U.S.C. §103(a) in view of Hamasaki.

JP '515 does not teach or suggest that the alpha titanyl phthalocyanine has at least 2 main peaks at Bragg angles in the range of 9.5° to 27.3°, as is recited in independent claims 1, 9, 17 and 19. Thus, claim 1 is submitted to be non-obvious under 35 U.S.C. §103(a) in view of JP '515. Since claims 2-4 and 8 depend from claim 1, claims 2-4 and 8 are submitted to be non-obvious under 35 U.S.C. §103(a) in view of JP '515 for at least the reasons that claim 1 is submitted to be non-obvious under 35 U.S.C. §103(a) in view of JP '515.

There is no teaching or suggestion of combining Hamasaki and/or JP '515. Thus, claim 1 is submitted to be non-obvious under 35 U.S.C. §103(a) in view of Hamasaki and/or JP '515, alone or in combination. Since claims 2-4 and 8 depend from claim 1, claims 2-4 and 8 are submitted to be non-obvious under 35 U.S.C. §103(a) in view of Hamasaki and/or JP '515, alone or in combination, for at least the reasons that claim 1 is submitted to be non-obvious under 35 U.S.C. §103(a) in view of Hamasaki and/or JP '515, alone or in combination.

Also, though the Examiner submits that it would have been obvious to combine the teachings of the prior art, but there is no evidence as to whether this line of reasoning relates to a teaching which one of ordinary skill may already be "presumed to know" as a teaching from the prior art. Clearly, in any situation involving obviousness, it is always possible to improperly invent a reason why it would have been obvious to combine the teachings of the prior art. This reason usually comes from the patent application itself. Such an inventive line of reasoning is based upon impermissible **hindsight**.

The Federal Circuit has required that it is necessary to provide evidence of a suggestion, teaching or motivation to combine the teachings of the prior art. Even though this motivation may come from the knowledge of one of ordinary skill in the art, there must be evidence of such knowledge. In re Dembiczak, 50 USPQ 2d 1614, 1617 (Fed. Cir. 1999). The Federal Circuit has also stated that even where the level of skill in the art is high, the principle known to one of ordinary skill that suggests a combination of teachings must be specifically identified. In re Rouffet, 47 USPQ 2d 1453, 1459 (Fed. Cir. 1998).

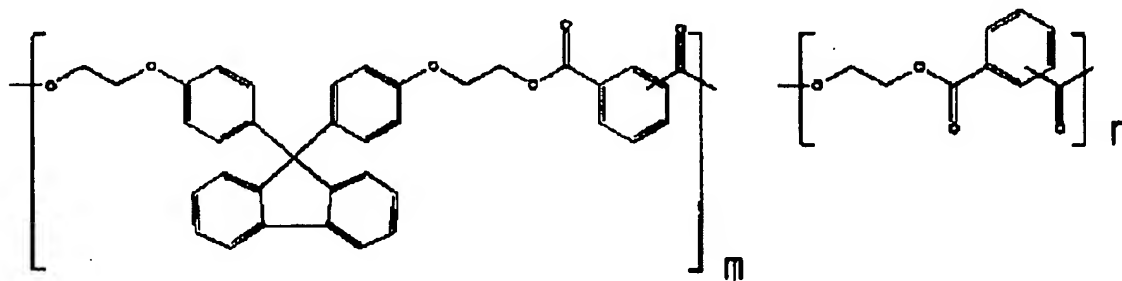
Thus, the obviousness analysis presented in the rejections is still deficient, and it is requested that the rejections of claims 1-4, and 8 under 35 U.S.C. §103(a) in view of Hamasaki and/or JP '515 (Zhu is not prior art), alone or in combination, be withdrawn.

In addition, although the Examiner lists several references as a basis for the rejection, none of the references teaches or suggests a photoreceptor layer which includes both Y-form titanyloxy phthalocyanine acting as a charge generating material and polyethylene terephthalate polymer acting as a binder material, as is recited in amended claim 1 of the present invention. Thus, amended claim 1, and claims 2, 4 and 8 which depend therefrom, are submitted to be non-obvious under 35 U.S.C. §103(a) over UPSN 6,528,645 B1 (Hamasaki) and/or JP'515 (see JPO translation of JP'515 for cites) (Zhu does not qualify as prior art).

D. In the Office Action, at pages 25-27, numbered paragraph 19, claims 9-12 and 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over US 2003/00228534 A1 (Zhu), as evidenced by applicants' admission in paragraph 0033 of the instant specification of the chemical identity of the material associated with the tradename MPCT 10 obtained from Mitsubishi Paper Mill Co., combined with 6,528,645 B1 (Hamasaki) and JP '515 (see JPO translation of JP '515 for cites), further combined with US 6,284,031 (Healy). The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

It is respectfully submitted that US 2003/00228534 A1 (Zhu) is not available as prior art. As noted above, the date of invention in the instant invention is at least July 10, 2002, which is the foreign priority date based upon the prior filing of the foreign counterpart to the instant application in the Korean Intellectual Property Office. A copy of the foreign counterpart was previously filed, as acknowledged by the Examiner in the Summary of the Office Action. Thus, US 2003/00228534 A1 (Zhu) is not available as prior art since Zhu was first published on December 11, 2003.

Hamasaki fails to disclose that the binder resin comprises the polyester resin recited in the instant claims. Thus claim 9 is submitted to be non-obvious under 35 U.S.C. §103(a) by Hamasaki. Hamasaki fails to teach using the binder resin is a polyethylene terephthalate polymer which has a following formula;

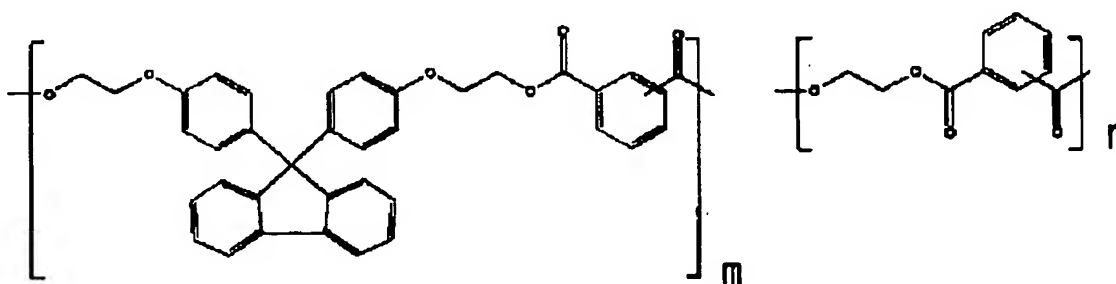


with n and m each being an integer that is equal to, or greater than, 1, which is recited in independent claims 1 and 9 of the present claimed invention. Thus, independent claim 9 is non-

obvious under 35 U.S.C. §103(a) in view of Hamasaki. Since claims 10-12 and 16 depend from claim 9, claims 10-12 and 16 are submitted to be non-obvious under 35 U.S.C. §103(a) in view of Hamasaki for at least the reasons that claim 9 is submitted to be non-obvious under 35 U.S.C. §103(a) in view of Hamasaki.

JP '515 does not teach or suggest that the alpha titanyl phthalocyanine has at least 2 main peaks at Bragg angles in the range of 9.5° to 27.3°, as is recited in independent claims 1, 9, 17 and 19. Thus, claim 9 is submitted to be non-obvious under 35 U.S.C. §103(a) in view of JP '515. Since claims 10-12 and 16 depend from claim 9, claims 10-12 and 16 are submitted to be non-obvious under 35 U.S.C. §103(a) in view of JP '515 for at least the reasons that claim 9 is submitted to be non-obvious under 35 U.S.C. §103(a) in view of JP '515.

Healy fails to disclose that the binder resin comprises the polyester resin recited in the instant claims. Thus claim 9 is submitted to be non-obvious under 35 U.S.C. §103(a) by Healy. Healy fails to teach using the binder resin is a polyethylene terephthalate polymer which has a following formula;



with n and m each being an integer that is equal to, or greater than, 1, which is recited in independent claims 1 and 9 of the present claimed invention. Thus, independent claim 9 is non-obvious under 35 U.S.C. §103(a) in view of Healy. Since claims 10-12 and 16 depend from claim 9, claims 10-12 and 16 are submitted to be non-obvious under 35 U.S.C. §103(a) in view of Healy for at least the reasons that claim 9 is submitted to be non-obvious under 35 U.S.C. §103(a) in view of Healy.

There is no teaching or suggestion of combining Hamasaki and/or JP '515 and/or Healy.

Also, though the Examiner submits that it would have been obvious to combine the teachings of the prior art, but there is no evidence as to whether this line of reasoning relates to a teaching which one of ordinary skill may already be "presumed to know" as a teaching from the prior art. Clearly, in any situation involving obviousness, it is always possible to improperly invent a reason why it would have been obvious to combine the teachings of the prior art. This reason usually comes from the patent application itself. Such an inventive line of reasoning is

based upon impermissible **hindsight**.

The Federal Circuit has required that it is necessary to provide evidence of a suggestion, teaching or motivation to combine the teachings of the prior art. Even though this motivation may come from the knowledge of one of ordinary skill in the art, there must be evidence of such knowledge. In re Dembiczak, 50 USPQ 2d 1614, 1617 (Fed. Cir. 1999). The Federal Circuit has also stated that even where the level of skill in the art is high, the principle known to one of ordinary skill that suggests a combination of teachings must be specifically identified. In re Rouffet, 47 USPQ 2d 1453, 1459 (Fed. Cir. 1998).

Thus, the obviousness analysis presented in the rejections is still deficient, and it is requested that the rejections of claims 9-12 and 16 under 35 U.S.C. §103(a) in view of Hamasaki and/or JP '515 and/or Healy (Zhu is not prior art), alone or in combination, be withdrawn.

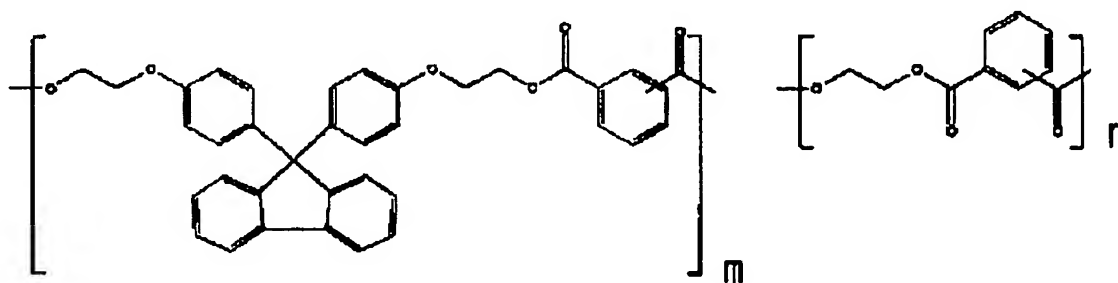
In addition, although the Examiner lists several references as a basis for the rejection, none of the references teaches or suggests a photoreceptor layer which includes both Y-form titanyloxy phthalocyanine acting as a charge generating material and polyethylene terephthalate polymer acting as a binder material, as is recited in amended claim 1 of the present invention. Thus, amended claim 1, and claims 2, 4 and 8 which depend therefrom, are submitted to be non-obvious under 35 U.S.C. §103(a) over UPSN 6,528,645 B1 (Hamasaki) and/or JP '515 (see JPO translation of JP '515 for cites), and/or US 6,284,031 (Healy) (Zhu does not qualify as prior art).

E. In the Office Action, at pages 27-29, numbered paragraph 20, claims 1, 2, 4, and 8 were rejected under 35 U.S.C. §103(a) as being unpatentable over US 2004/0096761 A1 (Lin), as evidenced by ACS File Registry RN 26201-32-1 and US 5,350,844 (Martin), combined with JP '515 (see JPO translation for cites). The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

As an initial point of clarification, Lin was first published on May 20, 2004, whereas the instant application was filed in the United States on June 24, 2003. As such, it is respectfully submitted that Lin does not qualify as prior art under 35 U.S.C. §102(b) or 35 U.S.C. §103(a). Additionally, the date of invention in the instant invention is at least July 10, 2002, which is the foreign priority date based upon the prior filing of the foreign counterpart to the instant application in the Korean Intellectual Property Office. A copy of the foreign counterpart was previously filed, as acknowledged by the Examiner on in the Summary of the Office Action.

Further, enclosed is an English translation of Korean Application No. 2002-40105, along with a corresponding statement from the translator in compliance with 37 CFR 1.55(a)(4). As such, it is respectfully submitted that the applicants have established a date of invention of at least July 10, 2002. MPEP 210.15. Since this date of invention is prior to the publication of Lin on May 20, 2004, Lin does not qualify as prior art under 35 U.S.C. 102(a) as it was not "described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent." Therefore, it is respectfully requested that the Examiner reconsider and withdraw the rejection of claims 1, 2, 4 and 8 in view of Lin under 35 U.S.C. §103(a).

Martin fails to disclose that the binder resin comprises the polyester resin recited in the instant claims. Thus claim 1 is submitted to be non-obvious under 35 U.S.C. §103(a) by Martin. Martin fails to teach using the binder resin is a polyethylene terephthalate polymer which has a following formula;



with n and m each being an integer that is equal to, or greater than, 1, which is recited in independent claims 1 and 9 of the present claimed invention. Thus, independent claim 1 is non-obvious under 35 U.S.C. §103(a) in view of Martin. Since claims 2, 4 and 8 depend from claim 1, claims 2, 4 and 8 are submitted to be non-obvious under 35 U.S.C. §103(a) in view of Martin for at least the reasons that claim 1 is submitted to be non-obvious under 35 U.S.C. §103(a) in view of Martin.

JP '515 does not teach or suggest that the alpha titanyl phthalocyanine has at least 2 main peaks at Bragg angles in the range of 9.5° to 27.3°, as is recited in independent claims 1 and 9. Thus, claim 1 is submitted to be non-obvious under 35 U.S.C. §103(a) in view of JP '515. Since claims 2, 4 and 8 depend from claim 1, claims 2, 4 and 8 are submitted to be non-obvious under 35 U.S.C. §103(a) in view of JP '515 for at least the reasons that claim 1 is submitted to be non-obvious under 35 U.S.C. §103(a) in view of JP '515.

There is no teaching or suggestion of combining Lin and/or Martin and/or JP '515.

Also, though the Examiner submits that it would have been obvious to combine the teachings of the prior art, but there is no evidence as to whether this line of reasoning relates to

a teaching which one of ordinary skill may already be "presumed to know" as a teaching from the prior art. Clearly, in any situation involving obviousness, it is always possible to improperly invent a reason why it would have been obvious to combine the teachings of the prior art. This reason usually comes from the patent application itself. Such an inventive line of reasoning is based upon impermissible **hindsight**.

The Federal Circuit has required that it is necessary to provide evidence of a suggestion, teaching or motivation to combine the teachings of the prior art. Even though this motivation may come from the knowledge of one of ordinary skill in the art, there must be evidence of such knowledge. In re Dembiczak, 50 USPQ 2d 1614, 1617 (Fed. Cir. 1999). The Federal Circuit has also stated that even where the level of skill in the art is high, the principle known to one of ordinary skill that suggests a combination of teachings must be specifically identified. In re Rouffet, 47 USPQ 2d 1453, 1459 (Fed. Cir. 1998).

Thus, the obviousness analysis presented in the rejections is still deficient, and it is requested that the rejections of claims 1, 2, 4 and 8 under 35 U.S.C. §103(a) in view of Lin and/or Martin and/or JP '515, alone or in combination, be withdrawn.

In addition, although the Examiner lists several references as a basis for the rejection, none of the references teaches or suggests a photoreceptor layer which includes both Y-form titanyloxy phthalocyanine acting as a charge generating material and polyethylene terephthalate polymer acting as a binder material, as is recited in amended claim 1 of the present invention. Thus, amended claim 1, and claims 2, 4 and 8 which depend therefrom, are submitted to be non-obvious under 35 U.S.C. §103(a) over US 2004/0096761 A1 (Lin), as evidenced by ACS File Registry RN 26201-32-1 and/or US 5,350,844 (Martin), and/or JP '515 (see JPO translation for cites).

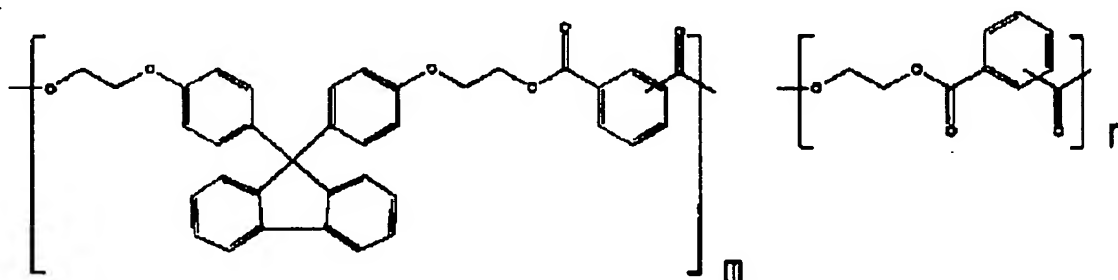
F. In the Office Action, at pages 29-31, numbered paragraph 21, claims 9, 10, 12, and 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over US 2004/0096761 A1 (Lin), as evidenced by ACS File Registry RN 26201-32-1 and US 5,350,844 (Martin), combined with JP'515 (see JPO translation for cites) and Healy. The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

As an initial point of clarification, Lin was first published on May 20, 2004, whereas the instant application was filed in the United States on June 24, 2003. As such, it is respectfully submitted that Lin does not qualify as prior art under 35 U.S.C. §102(b) or 35 U.S.C. §103(a). Additionally, the date of invention in the instant invention is at least July 10, 2002, which is the

foreign priority date based upon the prior filing of the foreign counterpart to the instant application in the Korean Intellectual Property Office. A copy of the foreign counterpart was previously filed, as acknowledged by the Examiner on in the Summary of the Office Action.

Further, enclosed is an English translation of Korean Application No. 2002-40105, along with a corresponding statement from the translator in compliance with 37 CFR 1.55(a)(4). As such, it is respectfully submitted that the applicants have established a date of invention of at least July 10, 2002. MPEP 210.15. Since this date of invention is prior to the publication of Lin on May 20, 2004, Lin does not qualify as prior art under 35 U.S.C. 102(a) as it was not "described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent." Therefore, it is respectfully requested that the Examiner reconsider and withdraw the rejection of claims 9, 10, 12, and 16 in view of Lin under 35 U.S.C. §103(a).

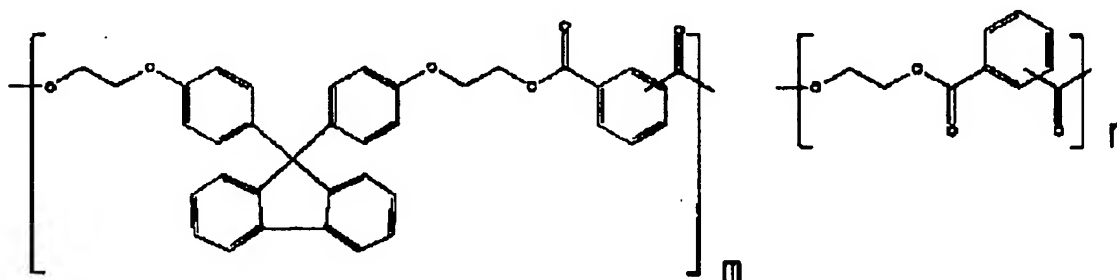
Martin fails to disclose that the binder resin comprises the polyester resin recited in the instant claims. Thus claim 9 is submitted to be non-obvious under 35 U.S.C. §103(a) by Martin. Martin fails to teach using the binder resin is a polyethylene terephthalate polymer which has a following formula;



with *n* and *m* each being an integer that is equal to, or greater than, 1, which is recited in independent claims 1 and 9 of the present claimed invention. Thus, independent claim 9 is non-obvious under 35 U.S.C. §103(a) in view of Martin. Since claims 10, 12 and 16 depend from claim 9, claims 10, 12 and 16 are submitted to be non-obvious under 35 U.S.C. §103(a) in view of Martin for at least the reasons that claim 9 is submitted to be non-obvious under 35 U.S.C. §103(a) in view of Martin.

JP '515 does not teach or suggest that the alpha titanyl phthalocyanine has at least 2 main peaks at Bragg angles in the range of 9.5° to 27.3°, as is recited in independent claims 1, 9, 17 and 19. Thus, claim 9 is submitted to be non-obvious under 35 U.S.C. §103(a) in view of JP '515. Since claims 10, 12 and 16 depend from claim 9, claims 10, 12 and 16 are submitted to be non-obvious under 35 U.S.C. §103(a) in view of JP '515 for at least the reasons that claim 9 is submitted to be non-obvious under 35 U.S.C. §103(a) in view of JP '515.

Healy fails to disclose that the binder resin comprises the polyester resin recited in the instant claims. Thus claim 9 is submitted to be non-obvious under 35 U.S.C. §103(a) by Healy. Healy fails to teach using the binder resin is a polyethylene terephthalate polymer which has a following formula;



with n and m each being an integer that is equal to, or greater than, 1, which is recited in independent claims 1 and 9 of the present claimed invention. Thus, independent claim 9 is non-obvious under 35 U.S.C. §103(a) in view of Healy. Since claims 10, 12 and 16 depend from claim 9, claims 10, 12 and 16 are submitted to be non-obvious under 35 U.S.C. §103(a) in view of Healy for at least the reasons that claim 9 is submitted to be non-obvious under 35 U.S.C. §103(a) in view of Healy.

There is no teaching or suggestion of combining Lin and/or Martin and/or JP '515 and/or Healy.

Also, though the Examiner submits that it would have been obvious to combine the teachings of the prior art, but there is no evidence as to whether this line of reasoning relates to a teaching which one of ordinary skill may already be "presumed to know" as a teaching from the prior art. Clearly, in any situation involving obviousness, it is always possible to improperly invent a reason why it would have been obvious to combine the teachings of the prior art. This reason usually comes from the patent application itself. Such an inventive line of reasoning is based upon impermissible **hindsight**.

The Federal Circuit has required that it is necessary to provide evidence of a suggestion, teaching or motivation to combine the teachings of the prior art. Even though this motivation may come from the knowledge of one of ordinary skill in the art, there must be evidence of such knowledge. In re Dembiczak, 50 USPQ 2d 1614, 1617 (Fed. Cir. 1999). The Federal Circuit has also stated that even where the level of skill in the art is high, the principle known to one of ordinary skill that suggests a combination of teachings must be specifically identified. In re Rouffet, 47 USPQ 2d 1453, 1459 (Fed. Cir. 1998).

Thus, the obviousness analysis presented in the rejections is still deficient, and it is

requested that the rejections of claims 9, 10, 12 and 16 under 35 U.S.C. §103(a) in view of Lin and/or Martin and/or JP '515 and/or Healy, alone or in combination, be withdrawn.

In addition, although the Examiner lists several references as a basis for the rejection, none of the references teaches or suggests a photoreceptor layer which includes both Y-form titanyloxy phthalocyanine acting as a charge generating material and polyethylene terephthalate polymer acting as a binder material, as is recited in amended claim 1 of the present invention. Thus, amended claim 9, and claims 10, 12 and 16 which depend therefrom, are submitted to be non-obvious under 35 U.S.C. §103(a) over US 2004/0096761 A1 (Lin), and/or ACS File Registry RN 26201-32-1 and/or US 5,350,844 (Martin), and/or JP'515 (see JPO translation for cites) and/or Healy.

DOUBLE PATENTING:

In the Office Action, at pages 31-33, numbered paragraphs 22-23, claims 1, 2, and 17-20 were provisionally rejected under the judicially created doctrine of obvious-type double patenting as being unpatentable over claims 1, 3-7, and 9-19 of copending Application No. 10/459,720 (Application'720) in view of Hamasaki. The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

Claims 17-20 have been cancelled without prejudice or disclaimer.

It is respectfully submitted that it is premature to raise a double patenting issue since the conflicting claims have not in fact been patented. Thus, the claims in the co-pending application are subject to change, and may not necessarily, in their final form, raise the issue of double patenting. Hence, we suggest it is premature to reject the claims of the present application on the basis of double patenting.

In general, in a double patenting instance, it is respectfully submitted that the respective claims of a first considered patent application are generally granted, and an obviousness-type double patenting rejection is then issued, if necessary, for the respective claims of the second patent application being considered with respect to the obviousness-type double patenting issue.

Thus, claims 1 and 2 of the present application are submitted to be allowable and not subject to rejection under the judicially created doctrine of obviousness-type double patenting with respect to claims 1, 3-7 and 9-19 of copending Application No. 10/459,720, which has not yet issued as a patent.

CONCLUSION:

Serial No. 10/601,859

Docket No. 1349.1194

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot, and further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: November 17, 2004

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